

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RONALD C. LIPFORD,)	Case No.: 5:07 CV 1188
)	
Petitioner)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
DEBORAH TIMMERMAN-COOPER,)	
WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On April 23, 2007, Petitioner Ronald C. Lipford (“Petitioner” or “Lipford”), *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition,” ECF No. 1) pursuant to 28 U.S.C. § 2254 for wrongful imprisonment.

This court referred the case to Magistrate Judge Nancy Vecchiarelli for preparation of a Report and Recommendation. (ECF No. 6.) On June 28, 2007, Respondent Deborah Timmerman-Cooper, Warden, (“Respondent”) filed her Return of Writ. (ECF No. 10.) Petitioner did not file a Traverse. The Magistrate Judge submitted his Report and Recommendation on July 13, 2007, recommending that Lipford’s Petition be dismissed. (ECF No. 12.) On July 9, 2007, Lipford filed a Notice of Voluntary Dismissal (ECF No. 11). According to the Notice of Dismissal, Lipford seeks a dismissal because he is scheduled to be released from prison within one month, and the court will not rule on the merits of his claims prior to his release, “the remedy . . . he seeks in this instance appears to be an inadequate remedy at law to secure his speedy release.”

Because Respondent has filed the Return of Writ, this action may not be dismissed without the court's approval. Federal Rule of Civil Procedure 41(a) provides, in relevant part, as follows:

(1) [A]n action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action.

(2) Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper.

Fed. R. Civ. P. 41(a).

The court finds, after careful *de novo* review of the Magistrate Judge's Report and Recommendation and all other relevant documents, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation. (ECF No. 12.)

Consequently, Lipford's Petition is hereby dismissed, and final judgment is entered in favor of Respondent. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 26, 2007